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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,009	07/10/2003	Jeffrey R. Murray	N81547/LPK	3088

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PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

EXAMINER

SPISICH. MARK

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,009

Applicant(s)

MURRAY ET AL.

Examiner

Mark Spisich

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 2-8 and 10-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the invention of Group I (the apparatus claims) and the species of figures 3A-3C in the reply filed on 5/16/2006 and 6/26/2006 is acknowledged.
2. Claims 2-8 and 10-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/16/2006 and 6/26/2006. Applicant elected the embodiment of figures 3A-3C. This embodiment **DOES NOT HAVE** (1) the central supporting disk with two or more arcuate segments or plurality of extensions for movement relative to the central disk and (2) the brush split into two or more cleaning sectors. As such claims 2-8 and 10-13 are non-elected invention.

Specification

3. The disclosure is objected to because of the following informalities: "301" (page 7, lines 25 and 26) should be #300.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 1 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. ALL of the independent claims in this application use the terms "variable diameter" as well as "oblong profile". There are also numerous

Art Unit: 1744

embodiments present in the application as well, some of which are clearly adjustable in diameter (eg, fig 5A and 7A) and others (like the elected embodiment figure 3A) which do not appear to be adjustable at all). Assuming that claim 1 (for example) was meant to cover the elected embodiment (fig 3A), the examiner questions whether the use of the term "variable diameter" is appropriate. If the examiner is incorrect, applicant is invited to point out exactly how the embodiment of figure 3A is variable in diameter. There is also confusion as to the meaning of the term "oblong profile". Some of the embodiments of the present invention (eg, fig 5A and 7A and page 10, lines 25-29) are circular and do not have an oblong profile; however, there are dependent claims off claim 1 which are for example specific to figure 5A. This brings into question the meaning of the term "oblong profile". In addition, even the embodiment of figure 3A does not have a cleaning brush (200) with an oblong profile. It does have a portion (between the opposed recessed portions 202) which could be described as oblong; however, the brush as a whole is circular. Also, claims 1 and 9 each refer to an "axis of rotation" (line 4 of each); however, there was no positive recitation that the brush rotated in the first place. The cleaning portions in the present application are, with respect to figure 3A, defined as the portions #201. Each of these portions individually cannot be said to have a diameter (an arc does not have a diameter). The elected embodiment does describe a "diameter 207" (fig 3D); however, this diameter cannot be said to be a diameter of any one "cleaning portion 201". Claims 1 and 9 also include references to "cleaning portions" (eg, claim 1, line 8), while only one is positively recited.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Peterson (USP 2,766,564). The patent to Peterson discloses a rotatable cleaning brush (1) which has an oblong profile when viewed along the axis of rotation and which includes a cleaning portion (8) and a recessed portion (either of the notched portions in figure 3). References to the article being cleaned are noted; however, this does not further limit the structure of the “cleaning brush”. With regard to the term “variable diameter”, this term has been given its broadest interpretation, especially in light of the fact that the embodiment of figure 3A is merely as rotary pad as well.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Rones (USP 5,477,579). The patent to Rones discloses a rotary pad (20) having an oblong profile (see fig 2) and further including a cleaning portion and a recessed portion (32,34). The reference to the diameter of the specific work being cleaned is noted; however, such does not limit a claim(s) drawn to an apparatus.

Allowable Subject Matter

8. Claim 9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Art Unit: 1744

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are pertinent to various rotary devices having various recessed portions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark Spisich
Primary Examiner
Art Unit 1744